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March 25, 2024

The Honorable P. Kevin Castel  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *In re Google Digital Antitrust Litigation*, No. 1:21-md-03010 (PKC)  
[rel. 1:21-cv-3446; 1:23-cv-5177]

Dear Judge Castel:

Plaintiffs Associated Newspapers, Ltd., Mail Media, Inc. (together, “Daily Mail”), and Gannett Co., Inc. write in response to Defendants Google LLC, and Alphabet Inc.’s (“Google”) Letter Reply. *See* MDL Dkt. No. 732. There is no conference scheduled at this time.

Google wrongly asserts (at 4) that Daily Mail and Gannett acted in “bad faith” when they rejected Google’s proposal that Daily Mail and Gannett be required to amend their complaints to “narrow[]” their allegations to “conform” them to this Court’s March 1, 2024 Opinion and Order. Ex. A to Google Letter Reply, MDL Dkt No. 732-1. Earlier amendment was forbidden by this Court’s November 18, 2022 Order. MDL Dkt. No. 392, ¶¶ 4-5 (staying “the time for any amendment” related to “state law claims”). In its letter today, Google agrees (at 2 n.2) that any amendment following Pre-Trial Order No. 4 would have been “disruptive to the Court’s schedule.” And Google’s recent proposal did not invite Daily Mail and Gannett to address the purported deficiencies in their complaints that Google identified for the first time in its pre-motion letter. Google offered Daily Mail and Gannett only the opportunity to *remove* allegations. Because nothing in the Federal or Local Rules requires a plaintiff to remove allegations following an order on a partial motion to dismiss, Daily Mail and Gannett rejected that proposal. It was not bad faith to reject a proposal that has no basis in federal procedure and was forbidden by this Court’s order.

Nor is there anything to Google’s suggestion (at 2) that Daily Mail and Gannett are now “try[ing] to expand the scope of this case,” and would “unnecessarily delay fact and expert discovery.” The state-law claims have been in this MDL for nearly three years. Daily Mail and Gannett do not seek to extend any discovery deadline. Any stay of discovery, including discovery of state-law claims, was lifted 16 months ago. *See* MDL Dkt. No. 394. In January

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2023, Google served 73 document requests on Daily Mail seeking discovery on, among other topics, “any documents and communications relating to the conduct You allege in Your Complaint.” Google’s First Requests for Production, Request No. 64. And, last November 2, this Court ordered additional discovery on Daily Mail and Gannett’s state-law claims, which Google *still* has not produced. *See* MDL Dkt. No. 664. Daily Mail’s and Gannett’s proposed amended complaints do not and need not impact the current discovery schedule.

Finally, the Court should reject Google’s request (at 5) that the Court reconsider the deadline it set for Google’s time to answer Daily Mail’s and Gannett’s federal claims. Daily Mail and Gannett seek only to amend their state law claims and Google does not explain why such an amendment should stay its deadline to answer Daily Mail’s and Gannett’s federal antitrust claims. Daily Mail and Gannett have conducted all discovery to date without Google’s statement of its purported defenses to their claims, and Google should not be afforded any further delay. The Court likewise should reject Google’s request to require Daily Mail and Gannett to “conform” their allegations to the Court’s March 1 Order. Google identifies no authority for any such requirement. The Court’s March 1 Order is clear regarding which federal antitrust claims remain operative in these cases. Daily Mail and Gannett retain the right to appeal those aspects of the Court’s March 1 Order that are adverse to them, and they should not be required to remove allegations that support claims they believe were adequately pled.

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Respectfully submitted,

*/s/ John Thorne*

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